
IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH

NYGEE DUNCAN,

Plaintiff,

v.

TREEHOUSE FOODS,

Defendant.

**ORDER ADOPTING REPORT AND
RECOMMENDATION**

Case No. 1:23-cv-00126-RJS-CMR

Chief District Judge Robert J. Shelby

Magistrate Judge Cecilia M. Romero

Before the court is the Report and Recommendation issued in the above captioned case by Magistrate Judge Cecilia M. Romero on November 5, 2024.¹ The Report recommends the case be dismissed for failure to prosecute pursuant to Federal Rule of Civil Procedure 41(b). In the Report, Judge Romero notified all parties of their right to object to the Report, pursuant to Federal Rule of Civil Procedure 72(b)(2), within 14 days of being served with a copy of it.² Judge Romero also cautioned that “[f]ailure to object may constitute waiver of objections upon subsequent review.”³

This matter has been pending since November 29, 2023, and the time for Plaintiff to serve Defendant expired on February 27, 2024.⁴ As of the date of this Order, Plaintiff has not served Defendant or taken any other action in this matter. Moreover, Plaintiff never complied with Judge Romero’s Order to Show Cause to explain the reason for failing to timely serve

¹ Dkt. 7, *Report and Recommendation*.

² *Id.* at 3.

³ *Id.*

⁴ See Dkt. 1, *Complaint*.

Defendant and failure to prosecute this case.⁵

Objections to a magistrate judge's report and recommendation must be both timely and specific to preserve an issue for de novo review by the district court.⁶ The court reviews for clear error any report and recommendation to which no timely or specific objections have been raised.⁷ Here, Plaintiff has not filed an objection to the Report, and the deadline to file an objection has passed. Accordingly, this court reviews the Report for clear error.

Having carefully considered the Report, the court determines Judge Romero's analysis and conclusions are sound. The court finds no clear error and ADOPTS the Report in full.⁸ Accordingly, the court DISMISSES Plaintiff's Complaint⁹ and directs the Clerk of Court to close the case.

SO ORDERED this 2nd day of December 2024.

BY THE COURT:



ROBERT J. SHELBY
United States Chief District Judge

⁵ See Dkt. 4, *Order to Show Cause*.

⁶ *United States v. 2121 East 30th St.*, 73 F.3d 1057, 1060 (10th Cir. 1996).

⁷ See, e.g., *Johnson v. Zema Sys. Corp.*, 170 F.3d 734, 739 (7th Cir. 1999) ("If no objection or only partial objection is made [to a magistrate judge's report and recommendation], the district court judge reviews those unobjectionable portions for clear error.") (citations omitted); see also Fed. R. Civ. P. 72(b) Advisory Committee's Note to 1983 Amendment ("When no timely objection is filed, the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.") (citation omitted).

⁸ Dkt. 7.

⁹ Dkt. 1.